

APPEAL NO. 031046  
FILED JUNE 9, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 7, 2003. The hearing officer determined that the respondent (claimant) did not sustain a compensable repetitive trauma injury, but that he did sustain a compensable single event injury on \_\_\_\_\_; that the claimant had disability from August 14, 2002, and continuing through January 12, 2003; and that the appellant (self-insured) is not relieved from liability under Section 409.002, because the claimant did timely notify his employer pursuant to Section 409.001. The self-insured appealed and the claimant responded, urging affirmance.

DECISION

Affirmed.

We first note that on appeal, the self-insured points out that the issue at the hearing was framed in terms of whether the claimant sustained a compensable repetitive trauma injury. The hearing officer determined that the claimant did not sustain a compensable repetitive trauma injury, but further determined that the claimant did sustain a compensable "single event injury." In Texas Workers' Compensation Commission Appeal No. 000741, decided May 25, 2000, we stated that "We have previously affirmed cases in which the hearing officer found a compensable single-event injury although the issue was framed in terms of occupational disease. Texas Workers' Compensation Commission Appeal No. 992851, decided January 27, 2000; Texas Workers' Compensation Commission Appeal No. 992343, decided December 6, 1999.

Conflicting evidence was presented at the hearing on the disputed issues. The self-insured contends that the claimant did not sustain an injury, but merely suffered from the effects of a preexisting condition. It has been held that an injury includes the aggravation of a preexisting condition. Cooper v. St. Paul Fire & Marine Insurance Company, 985 S.W.2d 614 (Tex. App.-Amarillo 1999, no pet.). Whether or not the claimant sustained a compensable injury, had disability, and timely notified his employer pursuant to Section 409.001, presented questions of fact for the hearing officer to resolve. The hearing officer clearly did not believe the supervisor regarding the reporting issue and it is the hearing officer who is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The carrier's appeal on the disability issue is predicated on a finding of no compensable injury. As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case, we conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**CITY SECRETARY  
(ADDRESS)  
(CITY), TEXAS (ZIP CODE).**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Edward Vilano  
Appeals Judge